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1 **Claim 56** has been amended and as amended [portions of the amended text
2 are depicted using bold italics below], recites a method for enhancing a continuous
3 video content program with supplemental hyperlink content to provide viewer
4 interactivity with the video content program, comprising the following steps:

- 5 • configuring digital data to define ***multiple*** display layouts:
 - 6 ▪ ***each*** prescribing how the supplemental hyperlink content
7 and the video content program are to appear in relation to
8 one another when displayed; and
 - 9 ▪ ***that are selectively displayable in response to a viewer***
10 ***selection;***
- 11 • transmitting the digital data and the video content program to a viewer
12 computing unit;
- 13 • displaying the supplemental hyperlink content and the video content
14 program according to the display layout; and
- 15 • ***dynamically changing the display layouts of the supplemental***
16 ***hyperlink content and the video content program in response to the***
17 ***viewer selection.***

18 Dougherty does not disclose, teach or suggest, “multiple different display layouts
19 ... that are selectively displayable in response to view selection” nor “dynamically
20 changing the display layouts of the supplemental hyperlink content and the video
21 content program in response to the viewer selection” as claimed in Claim 56.

22 **Claim 66** has been amended to include the limitations of Claim 67, and as
23 amended [portions of the amended text are depicted using bold italics below],
24 recites a method for authoring an interactive entertainment program, comprising
25 the following steps:

- constructing digital data to support interactive functionality with a
video content program, the digital data being configured to permit a
viewer to interactively control display of supplemental content along
with the video content program;

- defining a display layout of how the supplemental content and the video content program are displayed; and
- encoding the digital data with instructions to dynamically change the display layout of the supplemental content and the video content program *in response to viewer control*.

Dougherty does not disclose, teach or suggest, “encoding the digital data with instructions to dynamically change the display layout of the supplemental content and the video content program in response to viewer control” as claimed in Claim 66.

The Office asserts the following excerpts of Dougherty as disclosing configuring the data to define multiple different display layouts that are selectively displayed to the viewer depending upon the viewer’s selections of possible choices presented in the supplemental hyperlink content:

Referring now to FIG. 2B, in one embodiment, microprocessor 222 performs several memory management functions. Microprocessor 222 maintains in storage device 226 a pointer to each form in an application using a form handle table. The form handle table contains a pointer to the first byte of each form object in the application. The objects in each form are stored as a linked list, with the form object pointing to the first object in the linked list. An object is located by using the form handle table to locate the form, and then traversing the linked list until the desired object is located. *Dougherty, Col. 19, Lines 19-27.*

Because several applications may be resident in the storage device 226 at one time, more than one set of the tables and lists described above may be maintained by microprocessor 222, allowing a program application to stay resident while an advertisement application is operating, so that the program application need not be reloaded after the end of the advertisement when the program resumes. *Dougherty, Col. 19, Lines 40-46.*

1 As shown in the above excerpted portions, Dougherty merely describes memory
2 management using tables and lists. In neither of the excerpted portions, nor
3 elsewhere in the Dougherty reference, is there disclosure for “dynamically changing
4 the display layouts of the supplemental hyperlink content and the video content
5 program in response to said viewer’s selections” as claimed in Claim 56.
6 Additionally, Dougherty does not disclose, teach or suggest “encoding the digital
7 data with instructions to dynamically change the display layout of the
8 supplemental content and the video content program in response to viewer
9 control” as claimed in Claim 66. Therefore, for at least these reasons, Claims 56
10 and 66 are allowable and withdrawal of the rejections is respectfully requested.

11 **Claims 57-59 and 62-65** depend either directly or indirectly from claim 56
12 and are allowable as depending from an allowable base claim. These claims are
13 also allowable for their own recited features which, in combination with those
14 recited in claim 56, are neither shown nor suggested in the references of record,
15 either singly or in combination with one another.

16 **Claim 68** as originally filed is directed to a computer-readable storage
17 medium containing a target resource, the target resource comprising:

- 18 • supplemental content for rendering to a viewer to supplement
19 viewing of a continuous, non-interactive video stream;
- 20 • one or more elements prescribing how the supplemental content is to
21 be rendered along with, and relative to, the video stream.

22 Neither Dougherty, nor any of the other submitted references, alone or in
23 combination, disclose, teach or suggest “a computer readable storage medium” as
24 claimed in Claim 68.

25 Dougherty is directed to a method and apparatus which allows an
information provider to broadcast a graphical interactive information system

1 application to a user even using a low-bandwidth transport, such as a VBI. *See*
2 *Dougherty, Abstract*. Nowhere in *Dougherty*, alone or in combination with any of
3 the other submitted references, is there disclosure for a computer-readable storage
4 medium containing a target resource having supplemental content for rendering to
5 a viewer to supplement viewing of a continuous, non-interactive video stream.
6 Rather, *Dougherty* describes “[g]raphical interactive information is communicated
7 to the user by broadcasting graphical interactive information system applications.”
8 *Dougherty, Col. 6, Lines 1-3* (emphasis added).

9 Beginning at page 14 of the subject specification, an example of a
10 computer-readable storage medium is described. The interactive content can be
11 supplied locally by a storage medium, such as a CD-ROM. Suppose, for example,
12 a content developer creates an interactive CD-ROM that can be played along with
13 a particular movie. The supplemental content is accessed via disk reads to the
14 local storage drive, rather than using URLs to target resources over a network.
15 The supplemental content is synchronized with the program using open loop
16 control, such as a start time followed by measurable ticks or by frame count.

17 *Dougherty* does not disclose, teach or suggest a computer-readable storage
18 medium containing a target resource having supplemental content for rendering to
19 a viewer to supplement viewing of a continuous, non-interactive video stream one
20 or more elements prescribing how the supplemental content is to be rendered
21 along with, and relative to, the video stream. Accordingly, for at least this reason,
22 this claim is allowable.

23 **Claim 69** depends directly from claim 68 and is allowable as depending
24 from an allowable base claim. This claim is also allowable for its own recited
25 features which, in combination with those recited in claim 68, are neither shown

1 nor suggested in the references of record, either singly or in combination with one
2 another.

3
4 **35 U.S.C. §103(a)**

5 Claims 60-65 and 69 are rejected under 35 U.S.C. §103(a) as being
6 unpatentable over Dougherty in view of U.S. Patent No. 5,848,352 to
7 Throckmorton et al. (hereinafter "Throckmorton"). The Applicant respectfully
8 traverses the rejection.

9 **Claim 60** has been rewritten in independent form, and as rewritten, recites
10 a method for enhancing a continuous video content program with supplemental
11 hyperlink content to provide viewer interactivity with the video content program,
12 comprising the following steps:

- 13 • configuring digital data which defines a display layout prescribing
14 how the supplemental hyperlink content and the video content
program are to appear in relation to one another when displayed;
- 15 • transmitting the digital data along with the video content program as
16 two separate signals; and
- 17 • displaying the supplemental hyperlink content and the video content
program according to the display layout.

18 Neither Dougherty nor Throckmorton, alone or in combination, disclose, teach or
19 suggest these aspects.

20 The Office correctly asserts that Dougherty "fails to teach transmitting the
21 video content and digital data as two separate signals." *Office Action Dated May*
22 *11, 2004, Page 6*. Indeed, Dougherty teaches away from the use of two separate
23 signals. For example, Dougherty asserts that the cost of separate reception
24 equipment will be met with reluctance by users, as shown in the following excerpt:
25

1 One inherent problem is the reluctance of many users to
2 significantly invest in separate reception or display equipment
3 required to display and operate a graphical interactive
4 information system. For example, many potential users of a
5 graphical interactive television system will not pay the cost of
6 receiving the graphical interactive information over an FM
7 channel because of the cost of the additional tuner equipment
8 required by such an approach. *Dougherty, Col. 2, Lines 36-44.*

9 Dougherty addresses this problem by simultaneous broadcast, an example of
10 which is described in the following excerpt:

11 Even low bandwidth broadcast media can be used to carry
12 complete graphical interactive information system
13 applications for display and operation rapidly enough to allow
14 a graphical interactive information system application
15 integrated with the content of a conventional broadcast
16 program or advertisement to be broadcast simultaneously
17 with the program or advertisement. *Dougherty, Col. 2, Lines*
18 *27-34 (emphasis added).*

19 Therefore, Dougherty teaches away from the use of two separate signals for
20 “transmitting digital data along with the video content program” as claimed in
21 Claim 60.

22 The Office then asserts Throckmorton to cure the defects of Dougherty,
23 namely for teaching “transmitting primary and associated data as two separate
24 signals”. *See Office Action Dated May 11, 2004, Page 6.* However, “[a] prior art
25 reference must be considered in its entirety, i.e., as a whole, including portions that
would lead away from the claimed invention.” *M.P.E.P. 2141.02, citing W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).* An illustrative example of teaching away is provided by the M.P.E.P., which is excerpted as follows:

The prior art teachings with regard to unsintered PTFE indicated the material does not respond to conventional

1 plastics processing, and the material should be stretched
2 slowly. A reference teaching rapid stretching of conventional
3 plastic polypropylene with reduced crystallinity combined
4 with a reference teaching stretching unsintered PTFE would
5 not suggest rapid stretching of highly crystalline PTFE, in
6 light of the disclosure in the art that teach away from the
7 invention, i.e., that the conventional polypropylene should
8 have reduced crystallinity before stretching, and that PTFE
9 should be stretched slowly. *M.P.E.P. §2141.02*,

10 Accordingly, transmission as two separate signals of Throckmorton as proposed
11 by the Office is not consistent with the express teachings of Dougherty against the
12 use of separate signals. For instance, following the reasoning of the above
13 excerpted portion of the MPEP, a reference asserted by the Office for teaching two
14 separate signals (Throckmorton) when combined with a reference teaching
15 undesirability of two separate signals (Dougherty) would not suggest “transmitting
16 the digital data along with the video content program as two separate signals” to a
17 skilled artisan as claimed in claim 60. Therefore, it is respectfully submitted that
18 the Office has failed to describe how a skilled artisan would alter Dougherty
19 against its express teachings to implement the transmission taught by
20 Throckmorton.

21 Additionally, if the “proposed modification would render the prior art
22 invention being modified unsatisfactory for its intended purpose, then there is no
23 suggestion or motivation to make the proposed modification.” *M.P.E.P. 2143.01*
24 *citing In re Gordon*, 633 F.2d 900, 2221 USPQ 1125 (Fed. Cir. 1984). It is
25 respectfully submitted that the assertion made by the Office would render
Dougherty unsatisfactory for its intended purpose, namely to address the
reluctance of many users to significantly invest in separate reception equipment.
See Dougherty, Col. 2, Lines 36-40.

1 Accordingly, for at least these reasons, this claim is allowable.

2 **Claim 61** depends directly from claim 60 and is allowable as depending
3 from an allowable base claim. This claim is also allowable for its own recited
4 features which, in combination with those recited in claim 60, are neither shown
5 nor suggested in the references of record, either singly or in combination with one
6 another.

7 **Claims 62-65** depend directly or indirectly from claim 56 and are allowable
8 as depending from an allowable base claim. These claims are also allowable for
9 their own recited features which, in combination with those recited in claim 56,
10 are neither shown nor suggested in the references of record, either singly or in
11 combination with one another.

12 **Claim 61** depends directly from claim 60 and is allowable as depending
13 from an allowable base claim. This claim is also allowable for its own recited
14 features which, in combination with those recited in claim 60, are neither shown
15 nor suggested in the references of record, either singly or in combination with one
16 another.

17 **Claim 69** depends directly from claim 68 and is allowable as depending
18 from an allowable base claim. This claim is also allowable for its own recited
19 features which, in combination with those recited in claim 68, are neither shown
20 nor suggested in the references of record, either singly or in combination with one
21 another.

22 **Conclusion**

23
24 Claims 56-66 and 68-69 are in condition for allowance. Applicant
25 respectfully requests reconsideration and prompt issuance of the subject

1 application. If any issues remain that prevent issuance of this application, the
2 Examiner is urged to contact the undersigned attorney before issuing a subsequent
3 Action.

4
5 Respectfully Submitted,

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8 Dated: 7/21/04

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